

MONTANA LEGISLATIVE HISTORY

Chapter 435 ~~2003~~ 2003

Bill H 410 S _____ Original bill & history ✓ c

H. Committee on Business & Labor

Hearing Date(s) 1/30 _____ c

_____ c

_____ c

_____ c

Date Out 3/28 _____ c

S. Committee on Business & Labor

Hearing Date(s) 3/24 _____ c

3/28 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

10/22	FISCAL NOTE NEEDED		
1/23	INTRODUCED		
1/23	REFERRED TO LOCAL GOVERNMENT		
2/06	HEARING		
2/14	COMMITTEE EXECUTIVE ACTION—BILL PASSED	16	0
2/14	COMMITTEE REPORT—BILL PASSED		
2/17	PLACED ON CONSENT CALENDAR		
2/17	OBJECTION SUBMITTED TO CONSENT CALENDAR PLACEMENT		
2/18	2ND READING PASSED	100	0
2/19	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/24	REFERRED TO LOCAL GOVERNMENT		
3/06	HEARING		
3/07	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED	11	0
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/10	2ND READING CONCURRED ON VOICE VOTE	49	0
3/11	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/12	SENT TO ENROLLING		
3/13	RETURNED FROM ENROLLING		
3/13	SIGNED BY SPEAKER		
3/13	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/19	RETURNED WITH GOVERNOR'S PROPOSED AMENDMENTS		
4/10	2ND READING GOVERNOR'S PROPOSED AMENDMENTS CONCURRED	97	0
4/11	3RD READING GOVERNOR'S PROPOSED AMENDMENTS CONCURRED	97	0
4/11	TRANSMITTED TO SENATE FOR CONSIDERATION OF GOVERNOR'S PROPOSED AMENDMENTS		
4/14	2ND READING GOVERNOR'S PROPOSED AMENDMENTS CONCURRED ON VOICE VOTE	50	0
4/15	3RD READING GOVERNOR'S PROPOSED AMENDMENTS CONCURRED	49	1
4/15	RETURNED TO HOUSE CONCURRED IN GOVERNOR'S PROPOSED AMENDMENTS		
4/16	SENT TO ENROLLING		
4/16	RETURNED FROM ENROLLING		
4/16	SIGNED BY SPEAKER		
4/16	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
4/22	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 434		
	EFFECTIVE DATE: 4/22/2003 - ALL SECTIONS		

HB 409 INTRODUCED BY LENHART

LC1723 DRAFTER: LEE EVANS

MONTANA WHEAT PROTECTION AND PROMOTION ACT

1/23	INTRODUCED		
1/23	FISCAL NOTE REQUESTED		
1/23	REFERRED TO AGRICULTURE		
2/01	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/06	HEARING		
2/21	TABLED IN COMMITTEE		
2/28	MISSED DEADLINE FOR GENERAL BILL TRANSMITTAL		

HB 410 INTRODUCED BY C. YOUNKIN

LC1439 DRAFTER: MCCLURE

REVISE WORK COMP FOR DE MINIMUS TRAVEL REIMBURSEMENTS

1/23	INTRODUCED		
1/23	REFERRED TO BUSINESS AND LABOR		
1/30	HEARING		
1/30	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	17	1
1/31	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/07	2ND READING PASSED	94	6
2/08	3RD READING PASSED	86	6
	TRANSMITTED TO SENATE		
2/22	REFERRED TO BUSINESS AND LABOR		
3/24	HEARING		
3/31	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED AS AMENDED	10	0
3/31	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED ON VOICE VOTE	34	0
4/05	3RD READING CONCURRED	49	0

HOUSE BILLS AND RESOLUTIONS

361

	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING SENATE AMENDMENTS CONCURRED	98	2
4/10	3RD READING PASSED AS AMENDED BY SENATE	97	2
4/10	SENT TO ENROLLING		
4/11	RETURNED FROM ENROLLING		
4/11	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
4/22	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 435		
	EFFECTIVE DATE: 4/21/2003 - ALL SECTIONS		

HB 411 INTRODUCED BY GALLUS

LC1605 DRAFTER: STERNBERG

REVISE LAWS ON COMMERCIAL FISHING ACTIVITIES

1/23	INTRODUCED		
1/23	REFERRED TO FISH, WILDLIFE AND PARKS		
2/11	HEARING		
2/19	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	18	2
2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	2ND READING PASSED AS AMENDED	80	18
2/25	3RD READING PASSED	80	20
	TRANSMITTED TO SENATE		
2/26	REFERRED TO FISH AND GAME		
3/06	HEARING		
3/07	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED	9	1
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/10	2ND READING CONCURRED ON VOICE VOTE	48	1
3/11	3RD READING CONCURRED	43	7
	RETURNED TO HOUSE		
3/12	SENT TO ENROLLING		
3/13	RETURNED FROM ENROLLING		
3/13	SIGNED BY SPEAKER		
3/13	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
3/24	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 91		
	EFFECTIVE DATE: 3/24/2003 - ALL SECTIONS		

HB 412 INTRODUCED BY COHENOUR

LC1941 DRAFTER: PETESCH

REVISE LAW ON FENDERS, SPLASH APRONS, AND MUDFLAP LAWS

1/23	INTRODUCED
1/23	FISCAL NOTE REQUESTED
1/23	REFERRED TO TRANSPORTATION
1/27	FISCAL NOTE RECEIVED
1/27	FISCAL NOTE PRINTED
1/29	HEARING
2/10	TABLED IN COMMITTEE
2/28	MISSED DEADLINE FOR GENERAL BILL TRANSMITTAL

HB 413 INTRODUCED BY R. ERICKSON

LC0689 DRAFTER: MARTIN

INCREASE CIGARETTE TAX FOR MENTAL HEALTH CARE FUNDING

11/07	FISCAL NOTE NEEDED
1/23	INTRODUCED
1/23	FISCAL NOTE REQUESTED
1/23	REFERRED TO TAXATION
1/27	HEARING
1/30	FISCAL NOTE RECEIVED
1/30	FISCAL NOTE PRINTED
3/11	TABLED IN COMMITTEE
4/03	MISSED DEADLINE FOR REVENUE BILL TRANSMITTAL

HB 414 INTRODUCED BY BALYEAT

LC1967 DRAFTER: PETESCH

APPLY EXISTING VEHICLE 45-DAY GRACE PERIOD FOR REGISTRATION TO OTHER VEHICLES

1/23	INTRODUCED
1/23	FISCAL NOTE REQUESTED

H BILL NO. 410

INTRODUCED BY

Yankin
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN EMPLOYEE WHO IS INJURED OR DIES WHILE TRAVELING IN THE COURSE OF EMPLOYMENT IS ENTITLED TO COMPENSATION IF THE EMPLOYER FURNISHES ALL OF THE EMPLOYEE'S TRANSPORTATION OR IF THE EMPLOYER FULLY REIMBURSES THE EMPLOYEE FOR COSTS OF TRAVEL, GAS, OIL, OR LODGING AS A PART OF THE EMPLOYEE'S BENEFITS OR EMPLOYMENT AGREEMENT; AMENDING SECTION 39-71-407, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-407, MCA, is amended to read:

"39-71-407. Liability of insurers -- limitations. (1) Each insurer is liable for the payment of compensation, in the manner and to the extent provided in this section, to an employee of an employer that it insures who receives an injury arising out of and in the course of employment or, in the case of death from the injury, to the employee's beneficiaries, if any.

(2) (a) An insurer is liable for an injury, as defined in 39-71-119, if the injury is established by objective medical findings and if the claimant establishes that it is more probable than not that:

(i) a claimed injury has occurred; or

(ii) a claimed injury aggravated a preexisting condition.

(b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury aggravated a preexisting condition is not sufficient to establish liability.

(3) An employee who suffers an injury or dies while traveling is not covered by this chapter unless:

(a) (i) the employer furnishes all of the transportation or the employee receives full reimbursement from the employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement; and

(ii) the travel is necessitated by and on behalf of the employer as an integral part or condition of the employment; or

(b) the travel is required by the employer as part of the employee's job duties.

1 (4) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use
2 of alcohol or drugs not prescribed by a physician is the major contributing cause of the accident. However, if the
3 employer had knowledge of and failed to attempt to stop the employee's use of alcohol or drugs, this subsection
4 does not apply.

5 (5) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to the
6 same part of the body, the workers' compensation insurer is not liable for any compensation or medical benefits
7 caused by the subsequent nonwork-related injury.

8 (6) An employee is not eligible for benefits payable under this chapter unless the entitlement to benefits
9 is established by objective medical findings that contain sufficient factual and historical information concerning
10 the relationship of the worker's condition to the original injury.

11 (7) As used in this section, "major contributing cause" means a cause that is the leading cause
12 contributing to the result when compared to all other contributing causes."

13
14 **NEW SECTION. Section 2. Effective date -- applicability.** [This act] is effective on passage and
15 approval and applies to claims for compensation filed on or after [the effective date of this act].

16 - END -

5

INDEX TO BILLS IN COMMITTEE

April 08, 2003

- Committee: (H) Business and Labor -

08:34 AM

- HB 363** SPONSOR: Brown, Roy SHORT TITLE: Remove reserve requirements for old fund
REFERRED ON: 01/20/2003 HEARD ON: 01/24/2003
EXECUTIVE ACTION: 01/28/2003 -Bill Passed -- VOTE: 11 - 7
FINAL DISPOSITION: 04/03/2003 (S) Taken from 2nd Reading; Rereferred to Committee; in (S) Finance and Claims; Vote: 34 - 0
-
- HB 384** SPONSOR: McKenney, Joe SHORT TITLE: Allow limited benefit coverage health care plans demo project
REFERRED ON: 01/21/2003 HEARD ON: 01/31/2003
EXECUTIVE ACTION: 02/07/2003 -Bill Passed as Amended -- VOTE: 18 - 0
FINAL DISPOSITION: 04/07/2003 (H) Sent to Enrolling
-
- HB 387** SPONSOR: Morgan, Penny SHORT TITLE: Revise temporary use law for kiosks on private property
REFERRED ON: 01/21/2003 HEARD ON: 01/28/2003
TABLED ON: 02/12/2003
FINAL DISPOSITION: 02/28/2003 (H) Missed Deadline for General Bill Transmittal
-
- HB 403** SPONSOR: Keane, Jim SHORT TITLE: At least 50% of workers on state construction project must be MT residents
REFERRED ON: 01/22/2003 HEARD ON: 01/28/2003
EXECUTIVE ACTION: 01/29/2003 -Bill Passed -- VOTE: 15 - 3
FINAL DISPOSITION: 03/27/2003 (S) Conference Committee Report Received; in (S) Conference
-
- HB 404** SPONSOR: Brown, Dee SHORT TITLE: Require employer to provide law enforcement agency with employment information
REFERRED ON: 01/22/2003 HEARD ON: 01/27/2003
EXECUTIVE ACTION: 01/29/2003 -Bill Passed as Amended -- VOTE: 14 - 4
FINAL DISPOSITION: 04/05/2003 (S) Returned to House with Amendments
-
- HB 410** SPONSOR: Younkin, Cindy SHORT TITLE: Revise work comp for de minimus travel reimbursements
REFERRED ON: 01/23/2003 HEARD ON: 01/30/2003
EXECUTIVE ACTION: 01/30/2003 -Bill Passed as Amended -- VOTE: 17 - 1
FINAL DISPOSITION: 04/05/2003 (S) Returned to House with Amendments
-
- HB 434** SPONSOR: Wanzenried, David SHORT TITLE: Transfer money from state fund to general fund
REFERRED ON: 01/25/2003 HEARD ON: 01/31/2003
TABLED ON: 02/04/2003
FINAL DISPOSITION: 02/28/2003 (H) Missed Deadline for General Bill Transmittal
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on January 30, 2003 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 410; HB 359 (1/23/03)
Executive Action: HB 440 Tabled; HJR 14 Do Pass As Amended; HB 410 Do Pass As Amended

Shirley K. Brown, Administrator, Child & Family Services, Department of Health & Human Services, provided written testimony on a performance audit in regard to a bill which was heard on January 29, 2003.

EXHIBIT(buh20a01)

HEARING ON HB 410

Sponsor: REP. CINDY YOUNKIN, HD 28, Bozeman

Opening Statement by Sponsor:

REP. YOUNKIN, said this bill was an act providing that an employee who is injured or dies while traveling in the course of employment is entitled to compensation if the employer furnishes all of the employee's transportation or if the employer full reimburses the employee for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement. She also provided some proposed amendments.

EXHIBIT(buh20a02)

{Tape: 1; Side: A; Approx. Time Counter: 30 - 83}

Proponents' Testimony:

Jerry Driscoll, Montana State AFL-CIO, said he supported the bill as amended. There was a court case in which Colstrip won over what construction workers refer to as "travel pay." This is a daily payment but is also incentive pay. The intent of this bill is, when an employee leaves a job site, even though travel pay is given, the employee is not in the course of employment.

{Tape: 1; Side: A; Approx. Time Counter: 84 - 111}

Jacqueline Lenmark, American Insurance Association, said they support this bill with the amendments.

{Tape: 1; Side: A; Approx. Time Counter: 111 - 120}

Opponents' Testimony:

Travis Ahner, Montana Trial Lawyers Association, said they opposed this bill because of the language in the actual reimbursement.

{Tape: 1; Side: A; Approx. Time Counter: 120 - 141}

Gene Fenderson, Montana Progressive Labor Caucus, said they stand in opposition to this bill without the amendments. There are still some problems with the amendment.

{Tape: 1; Side: A; Approx. Time Counter: 141 - 158}

Informational Testimony:

Kevin Braun, Department of Labor & Industry, said he was there to answer questions.

Questions from Committee Members and Responses:

REP. GALLIK asked REP. YOUNKIN if the change with the amendments would have some effect on state employees. He then asked about the per diem. REP. YOUNKIN said her intent was not to affect state employees receiving the per diem.

{Tape: 1; Side: A; Approx. Time Counter: 166 - 178}

Closing by Sponsor:

The sponsor closed.

{Tape: 1; Side: A; Approx. Time Counter: 182 - 195}

HEARING ON HB 359

Sponsor: REP. KATHLEEN GALVIN-HALCRO, HD 48, Great Falls

Opening Statement by Sponsor:

REP. GALVIN-HALCRO said this bill was an act requiring an employer with 15 or more employees, including management, to adopt a policy generally providing for rest periods of not less than 10 minutes every 4 hours; providing exceptions; and providing an immediate effective date. She also provided a copy of her testimony.

EXHIBIT (buh20a03)

{Tape: 1; Side: A; Approx. Time Counter: 207 - 290}

Proponents' Testimony:

Don Judge, Teamsters Local 190, said they support this bill. He mentioned he had received telephone calls from employees questioning the statute number for this legislation. Most employees believe this already exists. Most employees do receive breaks by employers who recognize that in addition to mental, personal and physical health of those workers, it is also good for safety.

{Tape: 1; Side: A; Approx. Time Counter: 290 - 330}

Richard Sargent, M.D., said he came before the committee to speak of his professional experience in dealing with the employees of a call center in Helena which opened about three years ago. He

The facts are all there and the department could proceed with the new information.

REP. LAWSON said the issues are so great in this area and so important that another study is not needed. The focus of this bill was more on the Native American population. This bill is just another step in the positive direction to get a handle on the problems the citizens in Montana are faced with trying to work with state government. He then said he would offer an amendment.

Motion/Vote: **REP. LAWSON** moved **HJR 14 AMENDMENTS**. Motion carried 18-0.

Discussion:

REP. BOOKOUT-REINICKE said the department used their powers too heavy handedly in many instances.

REP. ROME said the study had been completed and local control was taken away. He questioned if this study should be redone or if it is money wasted. **REP. BOOKOUT-REINICKE** said there would not be money wasted.

REP. MORGAN said that it was her understanding an interim study was needed on the qualifications of social workers. Social workers have an incredible amount of power. Perhaps this study would derive a higher class of social worker that would not be so apt to make a decision before all of the information was accumulated. She then indicated she would vote for this bill.

Motion/Vote: **REP. LAWSON** moved **HJR 14 DO PASS AS AMENDED**. A roll call vote was taken. Motion carried 14-4 with **REPS. MCKENNEY, STEINBEISSER, BITNEY, and ROME** voting no.

EXECUTIVE ACTION ON HB 410

{Tape: 2; Side: A; Approx. Time Counter: 280 - 370}

Motion: **REP. MENDENHALL** moved **HB 410 DO PASS**.

Motion: **REP. KEANE** moved **HB 410 AMENDMENTS**.

Discussion:

REP. GALLIK said he opposed the amendments.

HOUSE COMMITTEE ON BUSINESS AND LABOR

January 30, 2003

PAGE 8 of 9

Vote: Motion carried 17-1 on HB 410 AMENDMENTS with REP. GALLIK voting no.

Motion/Vote: REP. KEANE moved HB 410 DO PASS AS AMENDED. Motion carried 17-1 with REP. GALLIK voting no.

ADJOURNMENT

Adjournment: 9:45 A.M.

REP. JOE MCKENNEY, Chairman

ALBERTA STRACHAN, Secretary

JM/AS

EXHIBIT (buh20aad)



HOUSE STANDING COMMITTEE REPORT

January 30, 2003

Page 1 of 2

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 410** (first reading copy -- white) do pass as amended.

Signed: _____

Representative Joe McKenney, Chair

And, that such amendments read:

1. Title, line 6.

Strike: "ALL OF"

2. Title, line 6 through line 7.

Strike: "THE EMPLOYER" on line 6 through "REIMBURSES" on line 7

3. Title, line 7.

Following: "EMPLOYEE"

Insert: "RECEIVES ACTUAL REIMBURSEMENT"

4. Page 1, line 24.

Following: "(3)"

Insert: "(a)"

5. Page 1, line 25.

Strike: "(a)"

6. Page 1, line 25.

Strike: "all of"

Strike: "full"

Insert: "actual"

Committee Vote:

Yes 17, No 1.

201050SC.hhn

1-30-03
JL

13

7. Page 1, line 27.

Strike: ";"

8. Page 1, line 28.

Strike: "(ii)"

9. Page 1, line 30.

Strike: "(b)"

Insert: "(ii)"

10. Page 1, following line 30.

Insert: "(b) As used in this subsection (3), "actual reimbursement" does not include payments or compensation made as an incentive to the employee to travel to and from a job site."

- END -



Exhibit:

1

**This exhibit is a collection of several
assorted documents
which cannot be scanned because they
exceed
the maximum amount that can be scanned**

**If you wish to view this exhibit it is on file
at the**

**Montana Historical Society
225 North Roberts Street
Helena, MT 59701
(406) 444-4774**

Amendments to House Bill No. 410
1st Reading Copy

Requested by Representative Cindy Younkin

For the House Business and Labor Committee

Prepared by Bartley Campbell
January 30, 2003 (7:34am)

1. Title, line 6.
Strike: "ALL OF"
2. Title, line 6 through line 7.
Strike: "THE EMPLOYER" on line 6 through "REIMBURSES" on line 7
3. Title, line 7.
Following: "EMPLOYEE"
Insert: "RECEIVES ACTUAL REIMBURSEMENT"
4. Page 1, line 24.
Following: "(3)"
Insert: "(a)"
5. Page 1, line 25.
Strike: "(a)"
6. Page 1, line 25.
Strike: "all of"
Strike: "full"
Insert: "actual"
7. Page 1, line 27.
Strike: " ; "
8. Page 1, line 28.
Strike: "(ii)"
9. Page 1, line 30.
Strike: "(b)"
Insert: "(ii)"
10. Page 1, following line 30.
Insert: "(b) As used in this subsection (3), "actual reimbursement" does not include payments or compensation

made as an incentive to the employee to travel to and from a job site."

- END -

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 1-30-03

NAME 1-2	PRESENT	ABSENT	EXCUSED
REP. JOE McKENNEY, CHAIR.	✓		
REP. DON STEINBEISSER, VICE CHAIR MAJORITY	✓		
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY	✓		
REP. SYLVIA BOOKOUT- REINICKE	✓		
REP. NANCY RICE FRITZ	✓		
REP. DAVE GALLIK	✓		
REP. KATHLEEN GALVIN- HALCRO	✓		
REP. RAY HAWK	✓		
REP. BOB LAWSON	✓		
REP. RICK MAEDJE	✓		
REP. GARY MATTHEWS	✓		
REP. SCOTT MENDENHALL	✓		
REP. PENNY MORGAN	✓		
REP. ALLEN ROME	✓		
REP. SANDY WEISS	✓		
REP. BILL WILSON	✓		

INDEX TO BILLS IN COMMITTEE

April 09, 2003

- Committee: (S) Business and Labor -

12:55 PM

- HB 385** SPONSOR: Fritz, Nancy SHORT TITLE: Extend applicability of lemon law
REFERRED ON: 02/24/2003 HEARD ON: 03/24/2003
EXECUTIVE ACTION: 03/27/2003 -Bill Concurred as Amended -- VOTE: 9 - 0
FINAL DISPOSITION: 04/08/2003 (H) 2nd Reading Senate Amendments Concurred; Vote: 100 - 0
-
- HB 403** SPONSOR: Keane, Jim SHORT TITLE: At least 50% of workers on state construction project must be MT residents
REFERRED ON: 02/08/2003 HEARD ON: 03/05/2003
EXECUTIVE ACTION: 03/11/2003 -Bill Concurred as Amended -- VOTE: 9 - 0
FINAL DISPOSITION: 03/27/2003 (S) Conference Committee Report Received; in (S) Conference
-
- HB 410** SPONSOR: Younkin, Cindy SHORT TITLE: Revise work comp for de minimus travel reimbursements
REFERRED ON: 02/22/2003 HEARD ON: 03/24/2003
EXECUTIVE ACTION: 03/31/2003 -Bill Concurred as Amended -- VOTE: 10 - 0
FINAL DISPOSITION: 04/05/2003 (S) Returned to House with Amendments
-
- HB 438** SPONSOR: Forrester, Gary SHORT TITLE: Revise construction prompt payment law
REFERRED ON: 02/24/2003 HEARD ON: 03/21/2003
EXECUTIVE ACTION: 03/22/2003 -Bill Concurred -- VOTE: 8 - 0
FINAL DISPOSITION: 04/04/2003 (H) Transmitted to Governor
-
- HB 474** SPONSOR: Weiss, Sandy SHORT TITLE: Clarify that vehicle leases are not sales or security interests
REFERRED ON: 02/24/2003 HEARD ON: 03/26/2003
EXECUTIVE ACTION: 03/27/2003 -Bill Concurred -- VOTE: 10 - 0
FINAL DISPOSITION: 04/08/2003 (S) Signed by President
-
- HB 482** SPONSOR: Forrester, Gary SHORT TITLE: Change indemnification in insurance clauses for construction contracts
REFERRED ON: 02/28/2003 HEARD ON: 03/21/2003
EXECUTIVE ACTION: 03/26/2003 -Bill Concurred -- VOTE: 5 - 4
FINAL DISPOSITION: 04/08/2003 (H) Returned from Enrolling
-
- HB 501** SPONSOR: Noennig, Mark SHORT TITLE: Revise licensure of radiologic technologists
REFERRED ON: 02/24/2003
FINAL DISPOSITION: 04/08/2003 (S) Signed by President
-

14

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **SENATOR VICKI COCCHIARELLA**, on March 24, 2003
at 9:06 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused:

Sen. Bob Keenan (R)
Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Fred Thomas (R)

Members Absent:

None.

Staff Present:

Sherrie Handel, Committee Secretary
Eddye McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 507, 2/24/2003; HB 385,
2/24/2003; HB 640, 3/7/2003; HB
410, 2/22/2003

Executive Action: HB 507

{Tape: 1; Side: A}

HEARING ON HB 410

Sponsor: REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN

Proponents: Cary Hegreberg, Montana Contractors Association;
Jerry Driscoll, AFL/CIO; George Wood, Montana
Self-Insurers Association; Jacqueline Lenmark,
American Insurance Association

Opponents: None

Informational Witnesses:

Nancy Butler, Montana State Fund; Kevin Braun,
Montana State Department of Labor and Industry

Opening Statement by Sponsor:

REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN, explained that HB 410 arose out of a situation involving an employer who was giving an incentive payment to employees who were traveling to work sites that were distant from Bozeman. He gave about \$10 or \$20 per day for travel, although it was not the federal rate for mileage. There was a car accident in which someone died. As a result of that, it went through the Workers Compensation Court, which found that, while he was not within the scope of his employment, was covered by workers comp. The employer paid 60 percent of the employee's salary for the next ten years. The intention is not to pay employees while they are not within the scope of their employment. This bill went through several revisions in House committee. There were still concerns at that point with the way the bill was drafted. If you're just giving a small stipend for travel expenses and you punch out and stop for dinner on the way home, drive the other 30 miles home, and get into an accident, that is not within the scope of your course of employment. She shared that an amendment was being prepared at the time of this hearing. What it would do would take out "actual employment" on line 26 of page 1 and would go on to define at the top of page 2 that "reimbursement does not include payments or compensation made as an incentive to the employee who travels to and from a job site." Under the applicability section on line 18, where it says, "compensation filed," it would delete those words and add, "injuries that occur on or after ..." in order to not make it retroactive.

Proponents' Testimony:

Cary Hegreberg, Montana Contractors Association, rose in support of this bill and said it was the result of an accident injury incurred by an employee of one of their member companies. He

went on to say this matter caused a great deal of concern to this particular company owner and to all of their members, who, on occasion, pay a stipend or partial travel reimbursement for employees to go to somewhat remote work sites. He thought most of small Montana businesses may, on occasion, fill an employee's car gas tank or hand them a small amount of money to cover some of their travel costs. This bill would allow employers to continue to help employees in that way without getting caught in this precarious situation.

Jerry Driscoll, AFL/CIO, talked about travel on page 2. He said it is not really travel pay in construction. It is just a payment to get the employee there. If you use your camper trailer to live in the remote area, you still get the money. He used Colstrip as an example. There is no relationship on where the employee lives and the job site is located. His stated fear was that if the law is not amended with this bill, contractors will discontinue paying that tax-free money.

{Tape: 1; Side: B}

George Wood, Montana Self-Insurers Association, rose in support of the bill, but said it needs clarification. He discussed a person was traveling from Salt Lake City to Montana to apply for a specific job, was injured in a car accident in Dillon. The court determined he was in the course of his employment, because they anticipated if he got the job, he would be paid some travel benefits. Clarification is needed to indicate when the person is in the course of employment. His organization felt this bill as amended would do so.

Jacqueline Lenmark, American Insurance Association, rose in support of the bill and amendments as described by the sponsor.

Opponents' Testimony:

None

Informational Witness Testimony:

Nancy Butler, Montana State Fund, stated her main concern with the bill was that the language be clear enough that it can be administered without litigation. She said she would appreciate the committee's assistance with an amendment.

Kevin Braun, Department of Labor and Industry, discussed regulatory obligations under the Workers Compensation Act that his department has and offered his informational assistance.

Questions from Committee Members and Responses:

SEN. CAROLYN SQUIRES asked **Mr. Driscoll** about **REP. YOUNKIN'S** comments on working with labor and travel time. **Mr. Driscoll** replied in the negative.

SEN. DON RYAN addressed his scenario to **Mr. Driscoll**. **SEN. RYAN** said, hypothetically, you have a young person working for a contractor and the employer sends him and another man to a distant job using their own pickup carrying the employer's tools. The employer will pay these two young men \$15 to drive back and forth every day. The young men would be paid for eight hours on the job even though they drive back and forth several hours each way. **SEN. RYAN** asked **Mr. Driscoll** if it was okay not to charge workers comp if they get paid for driving back and forth. **Mr. Driscoll** explained it was illegal not to pay them by the hour in the example cited by **SEN. RYAN**. Telling an employee to put tools in their truck and take them to the job site would put the employee on the clock as soon as the employer orders it. **SEN. RYAN** wanted to know if **Mr. Driscoll** believed that, by passing this bill, there would be protection from workers comp claims; but, employers would push the ticket and it would open the door to putting more pressure on the employee to do it the way he described and could it lead to larger contractors outbidding smaller contractors near that job site by reducing the amount they pay people to go back and forth to work, thus allowing them to underbid the job. **Mr. Driscoll** agreed it could happen; however, it was not the intent of the law. He did feel, however, that employees could file a wage claim.

SEN. VICKI COCCHIARELLA inquired of **Ms. Butler** a situation wherein an employee is driving from home to Burger King to go to work or from Missoula to another town to teach. Would that employee be covered under workers comp? **Ms. Butler** answered that most states' workers comp laws do not cover an employee while traveling to and from work. She listed instances when an employee would be covered by workers comp, such as being paid partial or full mileage.

SEN. CAROLYN SQUIRES asked **Ms. Butler** about having to travel within your work hours or work day. She replied it would not always apply.

Closing by Sponsor:

REP. YOUNKIN stated this bill was intended to give employers an incentive to keep offering an incentive to employees. It helps for both the employer and employee. The payment for incentive

needs to be in a collective bargaining agreement or employee handbook.

HEARING ON HB 640

Sponsor: REPRESENTATIVE DICK HAINES, HD 63, MISSOULA

Proponents: REP. DAVE WANZENRIED, HD 68, MISSOULA; Bruce Simon, citizen from Billings; Bobbi Rosignoll of Lolo; Ann Mary Dussault, Missoula County Commissioner; Roger Halver, Montana Association of Realtors; Steve White of Bozeman; Ken Miller, former State Senator and citizen; Gilda Clancy, Eagle Forum; Harold Blattie, Montana Association of Counties

Opponents: Chuck Tooley, Mayor of Billings; Paul Gruber, Montana State Fire Chiefs' Association; Alec Hansen, Montana League of Cities; Mike Cadas, Mayor of Missoula; Byron Roberts, Montana Building Industry Association; Charles Brooks, Billings Area Chamber of Commerce; Pat Clinch, Montana State Firefighters, Neal Poulsen, City of Bozeman; Clark Johnson, City of Bozeman

Informational Witnesses:

Greg Petesch, Legislative Branch
Kevin Braun, Department of Labor and Industry

Opening Statement by Sponsor:

REPRESENTATIVE DICK HAINES, HD 63, MISSOULA, shared the long story of this "donut" bill. Montana law allows a city to have jurisdiction 4.5 miles outside of the city limits. He explained that Montana law gives cities building code authority up to 4.5 miles outside the boundaries of the municipality. Building code authority is the authority to enforce code to which the standard by which construction of the building must appear. The idea is that inspectors for the government entity that has the building code authority will inspect building construction that is underway and approve or disapprove of the construction work.

REP. HAINES then explained why we need a donut bill. It is because citizens within the donut area believe they are being regulated unfairly in a sloppy and haphazard manner and the regulations cost them money for which they receive little or no value. They have no place to protest nor seek relief from their difficulties. In fact, in some instances, the unfairness of the

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS & LABOR COMMITTEE
ATTENDANCE**

DATE: *March 24, 2003*

NAME	PRESENT	EXCUSED	ABSENT
SENATOR DALE MAHLUM, CHAIR	✓		
SENATOR MIKE SPRAGUE, VICE CHAIR		✓	
SENATOR SHERM ANDERSON	✓		
SENATOR VICKI COCCHIARELLA	✓		
SENATOR KELLY GEBHARDT	✓		
SENATOR BOB KEENAN		✓	
SENATOR SAM KITZENBERG		✓	
SENATOR KEN HANSEN	✓		
SENATOR GLENN ROUSH	✓		
SENATOR DON RYAN	✓		
SENATOR CAROLYN SQUIRES	✓		
SENATOR FRED THOMAS		✓	

DATE March 24, 2003

SENATE COMMITTEE ON Business & Labor

BILLS BEING HEARD TODAY: HB 385, HB 507, HB 640, HB 410

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Neil Poulsen	582-2375	city of Bozeman	640		X
Bobbi Rossignol	232-415	SELF	640	X	
Bruce Simon	245-4237	SELF	640	X	
DOUG NEIL	899-0246	MT. ST. FIREMENS ASSN	640		X
Nancy Butler	444-772	Int. State Fund ST. OF MA	HB 410		
Jerry Driscoll	442-1708	AFL-CIO	HB 410	and X	
Jequeline Denmark	2-0230	Am. Ins. Assn	410	and X	
Steve Turkianicz	442-1233	Mr. Auto Dealers	385	X	
Cary Hegreberg	2-4162	Contractors Assn.	HB 410	X	
Armando Blattis	442-5209	MAPO	HB 640	X	
Ken Miller	628-7857	Myself	11	X	
Kevin Brown	416-58	DOLE	HB 640 HB 410		
Carol Schwartz	473-6438	ASAZ	HB 410	✓	

I

by
OC

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Monday March 24

SENATE COMMITTEE ON Business & Labor

BILLS BEING HEARD TODAY: HB 385, HB 507, HB 640, HB 410

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OFFICE
George Wood	406-544-8849	MT. Self-Tanner, Alta	HB 410	✓	
Paul Garber	406-657-8821	MT. St. Fire Chief	HB 640		✓
Jerry Keck	444-1555	MT Dept. of Labor + Industry	HB 410 HB 507	X	Info
Jani McCall	670-3084	City of Billings	640		✓
Chuck Tooling	657-8296	CITY OF BILLINGS	640		✓
Pat Clinch	431-6640	MSC PFA	HB 640		✓
Charles Brooks	698-2380	Billings Chamber	HB 640		✓
Craig Kertman	758-7730	Kalispell	HB 640		
Carl Jensen	444-5477	Consumer Protection Dept	HB 385	✓	
Steve Wynn	587-6163	Self	HB 640	✓	
GILDA CLANCY	431-8665	EAGLE FORUM		✓	
Russ Wahl	338-5858	Self	640	✓	
Roger Halver	459-0570	MT ASSN REALTORS	640	✓	

Ann Mary Dussaut 523-4858 Mda Co 640 ✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND LABOR**

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 28, 2003 at 10 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddy McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action: HB 410; HB 577

{Tape: 1; Side: A}

EXECUTIVE ACTION ON HB 410

Motion: SEN. GEBHARDT moved that HB 410 BE CONCURRED IN AS AMENDED, EXHIBIT(bus66a01) (HB041001.aem) .

Discussion: Eddye McClure, Legislative Staffer, explained the bill's amendments and answered questions from the committee.

Vote: Motion carried 10-0. SEN. DON RYAN WILL CARRY THE BILL.

EXECUTIVE ACTION ON HB 577

Motion: SEN. ROUSH moved that HB 577 BE CONCURRED IN.

Discussion: SEN. VICKI COCCHIARELLA raised concerns that the number "3" in the title and on line 14 of the bill be changed to "8." After discussion, it was decided to amend the bill. SEN. COCCHIARELLA moved the amendment.

Motion/Vote: SEN. ROUSH moved that HB 577 BE CONCURRED IN AS AMENDED, EXHIBIT(bus66a02) (HB057701.aem) . Motion carried 9-1 with COCCHIARELLA voting no. SEN. SHERM ANDERSON WILL CARRY THE BILL.



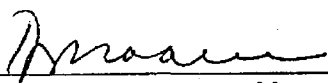
SENATE STANDING COMMITTEE REPORT

March 28, 2003

Page 1 of 2

Mr. President:

We, your committee on **Business and Labor** recommend that **House Bill 410** (third reading copy -- blue) **be concurred in as amended.**

Signed: 
Senator Dale Mahlum, Chair

To be carried by Senator Don Ryan

And, that such amendments read:

1. Title, page 1, line 6.

Following: "TRANSPORTATION"

Strike: remainder of line 6

Insert: " ; "

2. Title, page 1, line 7.

Following: "REIMBURSES"

Strike: "THE" through "REIMBURSEMENT"

Insert: "PROVIDING THAT A PAYMENT MADE TO AN EMPLOYEE UNDER A COLLECTIVE BARGAINING AGREEMENT, PERSONNEL POLICY MANUAL, EMPLOYEE HANDBOOK, OR ANY OTHER DOCUMENT PROVIDED TO THE EMPLOYEE AS AN INCENTIVE TO WORK AT A JOBSITE IS NOT A REIMBURSEMENT"

3. Title, page 1, line 8.

Following: "LODGING"

Strike: "AS" through "AGREEMENT"

4. Page 1, line 26.

Strike: "ACTUAL"

5. Page 2, line 2 through line 3.

Following: "(B)" on line 2

Strike: remainder of line 2 through "SITE" on line 3

Insert: "A payment made to an employee under a collective bargaining agreement, personnel policy manual, or employee

Committee Vote:

Yes 10, No 0.

661419SC.ssc

30

March 28, 2003

Page 2 of 2

handbook, or any other document provided to the employee that is not wages but is designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil, or lodging, and the employee is not covered under this chapter while traveling"

6. Page 2, line 18.

Strike: "compensation filed"

Insert: "injuries that occur"

- END -

3-28-2003

Exhibit bus66a01 is unavailable at the Law Library.

**The original exhibit is available at the Montana
Historical Society Archives, 406-444-2681.**

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS & LABOR COMMITTEE
ATTENDANCE**

DATE: *March 28, 2003*

NAME	PRESENT	EXCUSED	ABSENT
SENATOR DALE MAHLUM, CHAIR	✓		
SENATOR MIKE SPRAGUE, VICE CHAIR	✓		
SENATOR SHERM ANDERSON	✓		
SENATOR VICKI COCCHIARELLA	✓		
SENATOR KELLY GEBHARDT	✓		
SENATOR KEN HANSEN	✓		
SENATOR BOB KEENAN		✓	
SENATOR SAM KITZENBERG	✓		
SENATOR GLENN ROUSH	✓	✓	
SENATOR DON RYAN	✓		
SENATOR CAROLYN SQUIRES	✓		
SENATOR FRED THOMAS		✓	

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE**

DATE: *March 28, 2003* BILL NO. #B410

MOTION: Sen. Gebhardt moved HB410 be concurred in as amended (HB041001.aem)

[illegible]

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE**

DATE: March 28, 2003 BILL NO. HB410

MOTION: Sen. Sprague moved the bill's amendments.

[illegible]



AN ACT PROVIDING THAT AN EMPLOYEE WHO IS INJURED OR DIES WHILE TRAVELING IN THE COURSE OF EMPLOYMENT IS ENTITLED TO COMPENSATION IF THE EMPLOYER FURNISHES THE EMPLOYEE'S TRANSPORTATION; PROVIDING THAT A PAYMENT MADE TO AN EMPLOYEE UNDER A COLLECTIVE BARGAINING AGREEMENT, PERSONNEL POLICY MANUAL, EMPLOYEE HANDBOOK, OR ANY OTHER DOCUMENT PROVIDED TO THE EMPLOYEE AS AN INCENTIVE TO WORK AT A JOBSITE IS NOT A REIMBURSEMENT FOR COSTS OF TRAVEL, GAS, OIL, OR LODGING; AMENDING SECTION 39-71-407, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-407, MCA, is amended to read:

"39-71-407. Liability of insurers -- limitations. (1) Each insurer is liable for the payment of compensation, in the manner and to the extent provided in this section, to an employee of an employer that it insures who receives an injury arising out of and in the course of employment or, in the case of death from the injury, to the employee's beneficiaries, if any.

(2) (a) An insurer is liable for an injury, as defined in 39-71-119, if the injury is established by objective medical findings and if the claimant establishes that it is more probable than not that:

- (i) a claimed injury has occurred; or
- (ii) a claimed injury aggravated a preexisting condition.

(b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury aggravated a preexisting condition is not sufficient to establish liability.

(3) (a) An employee who suffers an injury or dies while traveling is not covered by this chapter unless:

(a)(i) the employer furnishes the transportation or the employee receives reimbursement from the employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement; and

(ii) the travel is necessitated by and on behalf of the employer as an integral part or condition of the

employment; or

(b)(ii) the travel is required by the employer as part of the employee's job duties.

(b) A payment made to an employee under a collective bargaining agreement, personnel policy manual, or employee handbook or any other document provided to the employee that is not wages but is designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil, or lodging, and the employee is not covered under this chapter while traveling.

(4) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major contributing cause of the accident. However, if the employer had knowledge of and failed to attempt to stop the employee's use of alcohol or drugs, this subsection does not apply.

(5) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to the same part of the body, the workers' compensation insurer is not liable for any compensation or medical benefits caused by the subsequent nonwork-related injury.

(6) An employee is not eligible for benefits payable under this chapter unless the entitlement to benefits is established by objective medical findings that contain sufficient factual and historical information concerning the relationship of the worker's condition to the original injury.

(7) As used in this section, "major contributing cause" means a cause that is the leading cause contributing to the result when compared to all other contributing causes."

Section 2. Effective date -- applicability. [This act] is effective on passage and approval and applies to claims for injuries that occur on or after [the effective date of this act].

- END -